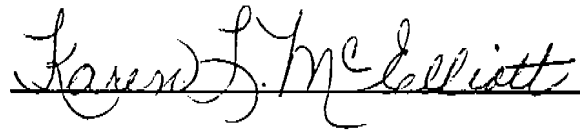


DECISION AND ORDER

The above stipulation is adopted and shall become the decision of the Medical Board of California, Division of Medical Quality effective NOVEMBER 3, 1995.

IT IS ORDERED this 4th day of OCTOBER, 1995.



Division of Medical Quality
Medical Board of California

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 VIVIEN HARA HERSH
Supervising Deputy Attorney General
3 JOSE R. GUERRERO (Bar No. 97276)
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 6200
San Francisco, California 94102
5 Telephone: (510) 286-4064

6 Attorneys for Complainant

7
8 BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation) No. 13-94-44898
11 Against:)
12 Philip A. Zlatnik, M.D.) SURRENDER OF PHYSICIAN'S
27 Brookdale Avenue) AND SURGEON'S CERTIFICATE
13 San Rafael, California 94901) AND ORDER THEREON
Physician's and Surgeon's)
14 Certificate No. C-18769)
15 Respondent.)
16)
17)

18 IT IS HEREBY STIPULATED AND AGREED by and between
19 Philip A. Zlatnik, M.D. (hereinafter "respondent") and the
20 Division of Medical Quality of the Medical Board of California by
21 and through its attorney, Daniel E. Lungren, Attorney General by
22 Jose R. Guerrero, Deputy Attorney General, as follows:

23 1. Respondent has received and read the Accusation
24 No. 13-94-44898 which is presently on file before the Division of
25 Medical Quality of the Medical Board, State of California
26 (hereinafter "the Board").

27 //

1 2. Respondent understands the nature of the charges
2 alleged in the above-mentioned Accusation, a copy of which is
3 attached hereto as "Exhibit A."

4 3. The complainant in the Accusation, Doug Laue, is
5 the Acting Executive Director of the Board and brought said
6 action solely in his official capacity.

7 4. Respondent's license history and status as set
8 forth in paragraph 2 of the Accusation is true and correct save
9 for the following correction. His certificate expired on March
10 31, 1995, and has not been renewed.

11 5. Respondent has been advised of his right to a
12 hearing on the charges and allegations contained in the
13 Accusation and his right to be represented by his counsel at any
14 and all stages, including settlement.

15 6. Respondent hereby freely and voluntarily waives
16 his right to a hearing on the charges and allegations contained
17 in Accusation No. 13-94-44898, and further, respondent agrees to
18 waive his right to reconsideration, judicial review and any and
19 all other rights which may be accorded him by the Administrative
20 Procedure Act and other laws of the State of California.

21 7. Any and all admissions of fact and conclusions of
22 law contained in this stipulation are made exclusively for the
23 purpose of settlement and compromise of this proceeding and any
24 future proceedings between the Board and respondent and shall not
25 be deemed to be admissions for any purpose in any other
26 administrative civil or criminal action, forum or proceeding.

27 //

1 8. Except as otherwise provided for herein,
2 respondent neither admits nor denies the allegations in
3 Accusation No. 13-94-44898, but for the purposes of settlement
4 and compromise of this proceedings, and to avoid the costs of
5 further litigation, respondent stipulates and agrees that the
6 Board has jurisdiction to enter into the terms and conditions of
7 this stipulation pursuant to sections 118 and 2234 of the
8 Business and Professions Code.

9 9. Respondent has retired from medical practice in
10 California and has already let his physician's and surgeon's
11 certificate expire. Respondent therefore agrees to surrender his
12 physician's and surgeon's certificate to the Board, thereby
13 relinquishing his right to practice in the State of California.

14 10. Respondent expressly agrees that should he in the
15 future apply to the Board to have his certificate renewed,
16 restored, reissued or petition for reinstatement of his
17 certificate, the allegations of the first and second causes for
18 disciplinary action shall be deemed admitted for purposes of
19 reinstatement.

20 11. In consideration for the above, the Board agrees
21 to accept the surrender of respondent's physician's and surgeon's
22 Certificate No. C-18769 upon the terms and conditions specified
23 above and further waives its rights to cost recovery pursuant to
24 Business and Professions Code section 125.3.

25 IT IS FURTHER STIPULATED AND AGREED that

26 12. The terms outlined herein are null and void and in
27 no way binding upon the parties hereto unless and until this

1 stipulation is adopted by the Division of Medical Quality,
2 Medical Board of California, as its decision in this matter.

3
4 DATED: 8-30, 1995

5 DANIEL E. LUNGREN, Attorney General
6 of the State of California
7 VIVIEN HARA HERSH
8 Supervising Deputy Attorney General
9 JOSE R. GUERRERO
10 Deputy Attorney General

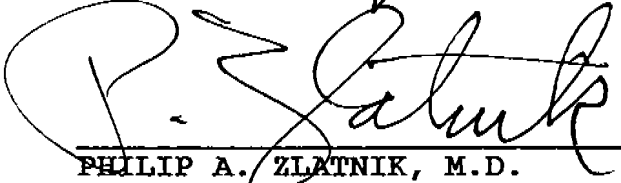
11 By


12 JOSE R. GUERRERO
13 Deputy Attorney General

14 Attorneys for Complainant

15 I HEREBY CERTIFY that I have read this stipulation in
16 its entirety, that I fully understand the terms therein and that
17 I voluntarily agree to them.

18 IN WITNESS THEREOF, I affix my signature this 31st
19 day of August, 1995, at San Rafael, California.

20 
21 PHILIP A. ZLATNIK, M.D.
22 Respondent

23 //
24 //
25 //
26 //
27 //

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JOSE R. GUERRERO, State Bar No. 97276
Deputy Attorney General
3 2101 Webster Street, 12th Floor
Oakland, California 94612-3049
4 Telephone: (510) 286-4064
Fax Number: (510) 286-4020

5 Attorneys for Complainant
6
7

8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation) No. 13-94-44898
Against:)
13) ACCUSATION
PHILIP A. ZLATNIK, M.D.)
14 480 Warren Drive, Apt. #301)
San Francisco, CA 94117)
15)
Physician's and Surgeon's)
16 Certificate No. C 18769,)
17 Respondent.)
18
19

20 Complainant, DOUG LAUE, as causes for disciplinary
21 action against the above-named respondent charges and alleges as
22 follows:

23 1. He is the Acting Executive Director of the Medical
24 Board of California (hereinafter referred to as the "Board") and
25 makes and files this Accusation solely in his official capacity.

26 2. On or about July 17, 1957, the Board issued to
27 Philip A. Zlatnik, M.D. (hereinafter referred to as "respondent")

1 Physician's and Surgeon's Certificate No. C 18769.

2 3. Section 2001 of the Business and Professions
3 Code^{1/} (hereinafter referred to as the "Code") provides for the
4 existence of the Board.

5 4. Section 2003 of the Code provides for the
6 existence of the Division of Medical Quality (hereinafter
7 referred to as the "Division") within the Board.

8 5. Section 2004 of the Code provides, inter alia,
9 that the Division is responsible for the administration and
10 hearing of disciplinary actions involving enforcement of the
11 Medical Practice Act (section 2000 et seq. of the Code) and the
12 carrying out of disciplinary action appropriate to findings made
13 by a medical quality review committee, the Division, or an
14 administrative law judge with respect to the quality of medical
15 practice carried out by physician and surgeon certificate
16 holders.

17 6. Section 2220, 2234 and 2227 of the Code together
18 provide that the Division shall take disciplinary action against
19 the holder of a Physician's and Surgeon's Certificate who is
20 guilty of unprofessional conduct.

21 7. Section 2234 of the Code provides as follows:

22 2234. The Division of Medical Quality shall
23 take action against any licensee who is
24 charged with unprofessional conduct. In
25 addition to other provisions of this article,
26 unprofessional conduct includes but is not
27 limited to, the following:

//

1. All statutory references are to the Business and Professions Code ("Code") unless otherwise indicated.

1 (f) Any action or conduct which would have
2 warranted the denial of a certificate.

3 8. Section 490 provides, inter alia, that
4 the Board may suspend or revoke a license on
5 the ground that the licensee has been
6 convicted of a crime, if the crime is
7 substantially related to the qualifications,
8 functions, or duties of the business or
9 profession for which the license was issued.
10 A conviction within the meaning of this
11 section means a plea or verdict of guilty or
12 a conviction following a plea of nolo
13 contendere.

14 9. Section 2236(a) provides as follows:

15 The conviction of any offense
16 substantially related to the qualifications,
17 functions, or duties of a physician and
18 surgeon constitutes unprofessional conduct
19 within the meaning of this chapter. The
20 record of conviction shall be conclusive
21 evidence only of the fact that the conviction
22 occurred.

23 10. Section 2239(a) provides as follows:

24 The use or prescribing for or administering
25 to himself or herself, of any controlled
26 substance; or the use of any of the dangerous
27 drugs specified in section 4211, or of alcoholic
beverages, to the extent, or in such a manner as
to be dangerous or in such a manner as to be
dangerous or injurious to the licensee, or to any
other person or to the public, or to the extent
that such use impairs the ability of the licensee
to practice medicine safely or more than one
misdemeanor or any felony involving the use,
consumption, or, self administration of any of the
substances referenced to in this section, or any
combination thereof, constitutes unprofessional
conduct. The record of conviction is conclusive
evidence of such unprofessional conduct.

28 11. Prozac is a trade name for a combination of
29 Fluoxetine and Hydrochloride, and is a dangerous drug as defined
30 in section 4211 of the Code.

31 //

1 FIRST CAUSE FOR DISCIPLINARY ACTION

2 12. On or about March 2, 1994, respondent was cited
3 for violating Vehicle Code section 23152(a) for driving a vehicle
4 while intoxicated and/or under the combined influence of an
5 alcoholic beverage and drug(s). Respondent was also cited for
6 violating Vehicle Code § 23152(b) for driving a vehicle with a
7 .08 percent or more by weight of alcohol in his blood.

8 13. Respondent plead guilty to 23152(a) of the Vehicle
9 Code (driving a vehicle while intoxicated) on April 20, 1994, in
10 a case entitled, *The People of the State of California v. Philip*
11 *A. Zlatnik*, Case No. 1498328, in the Municipal Court of the State
12 of California, City and County of San Francisco.

13 14. The respondent's conduct and conviction as set
14 forth in paragraphs 12 and 13 hereinabove have exposed his
15 license to discipline pursuant to Business and Professions Code
16 sections 490, 2220, 2234 including subsection (f) and 2236(a) as
17 a conviction which is substantially related to the
18 qualifications, functions or duties of a physician and surgeon.

19 SECOND CAUSE FOR DISCIPLINARY ACTION

20 15. On or about March 29, 1994, respondent was cited
21 for violating Vehicle Code section 23153(a) for driving a vehicle
22 while intoxicated and/or under the combined influence of an
23 alcoholic beverage and drug(s) which proximately caused bodily
24 injury to others. Respondent was also cited for violating
25 Vehicle Code section 23153(b) for driving with a .08 percent or
26 more by weight of alcohol in his blood which proximately caused
27 bodily injury.

1 16. Respondent on March 29, 1994, was arrested and
2 during a police interview at the scene of the accident admitted
3 that he takes Prozac once a day. Respondent was driving his
4 vehicle at a high rate of speed when he rear-ended a vehicle
5 which was stopped for a red light. This vehicle then crashed
6 into the stopped vehicle that was in front of it.

7 17. Respondent in a letter sent to the Board admitted
8 he had taken Prozac on the day of the March 29, 1994, accident
9 described in paragraphs 15 and 16 hereinabove. He also stated
10 that Prozac does not combine well with alcohol.

11 18. Respondent on April 20, 1994, plead guilty to
12 Vehicle Code Section 23152(a) (driving a vehicle while
13 intoxicated), in a case entitled, *The People of the State of*
14 *California v. Philip A. Zlatnik*, Case No. 1503398, in the
15 Municipal Court of the State of California, City and County of
16 San Francisco.

17 19. The allegations of the First Cause for
18 Disciplinary Action are incorporated herein by reference as if
19 set forth in their entirety.

20 20. The respondent's conduct and convictions as set
21 forth in paragraphs 15 through 18 hereinabove have exposed his
22 license to discipline pursuant to Business and Professions Code
23 sections 490, 2220, 2234, 2227, 2236(a) and 2239(a).
24 Respondent's convictions are substantially related to the
25 qualifications, functions or duties of a physician and surgeon
26 and constitute unprofessional conduct.

27 //

21. Pursuant to Business and Professions Code section 125.3, complainant may request that a licentiate found to have committed a violation of a licensing act pay a sum not to exceed the reasonable costs of investigation and enforcement of the case. The costs shall include the amount of investigative and enforcement costs up to the date of hearing, including, but not limited to, charges imposed by the Attorney General.

PRAYER

WHEREFORE, complainant prays that the Board hold a hearing on matters alleged herein and, following said hearing, issue a decision:

1. Suspending or revoking Physician's and Surgeon's Certificate No. C 18769 issued to respondent Philip A. Zlatnik, M.D.

2. Awarding the reasonable costs of investigation and prosecution of the case pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as the Board
deems necessary and proper.

DATED: AUGUST 16, 1995

~~DOUG LAKE~~
Acting Executive Director
Medical Board of California

Complainant

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